

**ORDINANCE (2006) 134 TC 296**  
**TC-10-06**

**AN ORDINANCE TO AMEND THE FLOODPRONE AREA REGULATIONS**

WHEREAS, North Carolina Emergency Management has requested changes in our Floodprone Area Regulations, and

WHEREAS, the City of Raleigh is required to adopt these changes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA:** that

**Section 1.** Amend the definition of **Flood insurance rate map (FIRM)**, as codified in Ordinance NO (2006) 999 TC282 (TC-4-06) section 3, in Raleigh City Code Section 10-4002 to delete the words “City of Raleigh” and in lieu thereof insert the words “Wake County” within the second sentence.

**Section 2.** Amend the definition of **Flood (plain) (prone) (hazard) area** in Raleigh City Code Section 10-4002 to delete the words “on the average, once every one hundred (100) years (i.e., by a hundred- *year* flood)” and in lieu thereof insert the words “by the *base flood* or the *future conditions flood*” at the end of the first sentence.

**Section 3.** Amend the definition of **Floodway** in Raleigh City Code Section 10-4002 to delete the words “one-hundred- *year flood*” and in lieu thereof insert the word “*base flood*”.

**Section 4.** Amend Raleigh City Code Section 10-4002 to delete in its entirety the definition of **Hundred-year-flood**.

**Section 5.** Amend Section 10-4002 of the Raleigh City Code to insert in their proper alphabetic order the following new definitions:

**“Hazardous waste facility. Hazardous waste facility** means, as defined in NCGS Article 9 of Chapter 130A, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**Non-Encroachment Area. Non-Encroachment area** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the *base flood* without cumulatively increasing the water surface elevation for the *future conditions flood* more than one (1) foot as designated in the Flood Insurance Study report.

**Salvage Yard. Salvage yard** means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**Solid waste disposal facility.** **Solid waste disposal facility** means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

**Solid waste disposal site.** **Solid waste disposal site** means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.”.

**Section 6.** The definition of **Regulatory flood protection elevation** appearing in Raleigh City Code Section 10-4002, as codified in Ordinance NO (2006) 999 TC282 (TC-4-06) section 3, is repealed, rewritten and re-enacted to read as follows:

**“Regulatory flood protection elevation.** *Regulatory flood protection elevation* means the elevation to which structures and uses within *floodway fringe* areas and *future conditions flood hazard areas* are required to be elevated or *floodproofed*. Within areas which have approved engineered flood studies, such as the FEMA flood insurance study, and *floodway fringe* areas, this elevation will be the "without floodway" *base flood elevation* plus two (2) additional vertical feet. *Base flood elevations* are shown in the *flood insurance study* for Wake County, Volumes 1 through 7. Within *future conditions flood hazard area*, this elevation will be the *future conditions flood elevation* plus two (2) additional vertical feet. *Future conditions flood elevations* are shown in the *flood insurance study* for Wake County, Volumes 1 through 7. For *flood hazard soil* areas and for areas without established flood elevations within watercourses, which drain one square mile or more, this elevation is the topographic contour lying five (5) vertical feet from the outermost boundaries of either the *flood hazard soils* or the made land, which traverse such soils. The *regulatory flood protection elevation* for *flood hazard soil* areas and for areas without established flood elevations within watercourses which drain less than one square mile is the elevation of the outermost boundaries of either the *flood hazard soils* or the made land which traverse such soils plus two (2) additional vertical feet; or as determined from a *flood hazard soil* interpretation. The *regulatory flood protection elevation* shall be the *base flood elevation* established on the *drainage basin study maps* plus two (2) additional vertical feet.”.

**Section 7.** Amend the second sentence of Raleigh City Code Section 10-4005(b) , as codified in Ordinance NO (2006) 999 TC282 (TC-4-06) section 18 to replace the words “City of Raleigh” with the language “Wake County,”.

**Section 8.** Section 10-4006 of the Raleigh City Code is repealed, rewritten and re-enacted to read as follows:

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**Sec. 10-4006.**  
**FLOODWAY AND NON-ENCROACHMENT AREAS – PERMITTED USES.**  

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The following uses, having low flow-obstructing characteristics, *may* be permitted within *floodway and non-encroachment areas*; provided they are not otherwise prohibited by this or any other law or ordinance:

**Cross reference:** Prohibited uses, §4-4007.

- (a) General farming, pasture, outdoor plant or nurseries, horticulture, forestry, wildlife sanctuary, game preserves, and other similar agricultural wildlife and related uses;
- (b) Lawns, yards, gardens, parking areas, play areas, and other similar uses;
- (c) Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, greenways, bikeways, hiking or horseback-riding trails, botanical and zoological gardens, open space, and other similar private and public recreational uses;
- (d) Any use employing a structure provided all portions of any structure, including foundation and supports, shall be located outside the floodway area and that any structure which overhangs the floodway is elevated above the depth of the 500-year flood;
- (e) Any other use not employing a structure and not subject to floating away during a flood.
- (f) Other encroachments, including fill; *new construction*; *substantial improvements*; *structures*, as defined in the North Carolina State Building Code; *manufactured home*; use and other developments when it has been demonstrated that: the proposed encroachment would not do any one or more of the following:
  - (1) adversely affect the capacity of the channels *floodway and non-encroachment areas* or drainage facilities or systems
  - (2) redirect velocities of water of the *base flood or future conditions flood* onto adjacent properties
  - (3) result in any increase in the flood levels during the occurrence of the *base flood or future conditions flood*

all based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.”.

**Section 9.** Section 10-4007 of the Raleigh City Code is repealed, rewritten and re-enacted to read as follows:

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**Sec. 4-4007.**

**FLOODWAY AND NON-ENCROACHMENT AREAS – PROHIBITED USES.**

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No encroachments, including fill; *new construction*; *substantial* improvements; structures as defined in the North Carolina Building Code; *manufactured home*; use and other developments shall be permitted within the *floodway* and/or *non-encroachment areas* unless it has been demonstrated that: the proposed encroachment would not adversely affect the capacity of the channels *floodway and non-encroachment areas* or drainage facilities or systems, or redirect velocities of water of the *base flood or future conditions flood* onto adjacent properties, or result in any increase in flood levels during the occurrence of the *base flood or future conditions flood* based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of flood permit, or a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

Chemical storage facilities which store or process acetone, acetylene gas, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, gasoline, hydrochloric acid, hydrocyanic acid, magnesium, materials or fuel which are flammable or explosive, nitric acid, oxides of nitrogen, petroleum products, phosphorus, potassium, sodium, sulfur, or any other item which in time of flooding is buoyant, or could be injurious to human, animal, or plant life is expressly prohibited and is unlawful within the *floodway* and/or *non-encroachment areas*.

New *solid waste disposal facilities, hazardous waste management facilities* and *salvage yards*, are prohibited in the *floodway* and/or *non-encroachment areas*.”.

**Section 10.** Amend Raleigh City Code Section 10-4008(a)(3) to replace the words ‘*hundred-year flood*’ with the words “*base flood or future conditions flood*”.

**Section 11.** Amend Raleigh City Code Section 10-4008(c)(4)a.3.(i) to replace the words “*hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 12.** Amend Raleigh City Code Section 10-4008(c)(5) to replace the words “*hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 13.** Amend Raleigh City Code Section 10-4009 to add the following new third sentence to be located at the end of the first paragraph:

“New *solid waste disposal facilities, hazardous waste management facilities* and *salvage yards*, are prohibited in the *floodway* fringe areas and/or future conditions flood hazards areas.”.

**Section 14.** Amend the first sentence of the second paragraph of Raleigh City Code Section 10-4009 to replace the words “*hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 15.** Amend the second sentence of the second paragraph of Raleigh City Code Section 10-4009 to replace the words “*hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 16.** Amend Raleigh City Code Section 10-4009(a) to replace the words “*hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 17.** Amend the title of Raleigh City Code Section 10-4010 to insert between the word “**FLOODWAY**” and the word “**AREA**”, the following language: “**AND NON-ENCROACHMENT**”.

**Section 18.** Amend Raleigh City Code Section 10-4010(a)(2) to replace the words “*hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 19.** Amend Raleigh City Code Section 10-4010(b) to replace the words “*one hundred-year flood*” with the words “*base flood or future conditions flood*”.

**Section 20.** Replace the definition of regulatory flood protection appearing in Raleigh City Code section 10-6023(d), as codified in Ordinance NO (2006) 999 TC282 (TC-4-06) section 25 to read as follows:

**“Regulatory flood protection elevation.** *Regulatory flood protection elevation* means the elevation to which structures and uses within *floodway fringe* areas and *future conditions flood hazard areas* are required to be elevated or *floodproofed*. Within areas which have approved engineered flood studies, such as the FEMA flood insurance study, and *floodway fringe* areas, this elevation will be the “without floodway” *base flood elevation* plus two (2) additional vertical feet. *Base flood elevations* are shown in the *flood insurance study* for Wake County, Volumes 1 through 7. Within *future conditions flood hazard area*, this elevation will be the *future conditions flood elevation* plus two (2) additional vertical feet. *Future conditions flood elevations* are shown in the *flood insurance study* for Wake County, Volumes 1 through 7. For *flood hazard soil* areas and for areas without established flood elevations within watercourses, which drain one square mile or more, this elevation is the topographic contour lying five (5) vertical feet from the outermost boundaries of either the *flood hazard soils* or the made land, which traverse such soils. The *regulatory flood protection elevation* for *flood hazard soil* areas and for areas without established flood elevations within watercourses which drain less than one square mile is the elevation of the outermost boundaries of either the *flood hazard soils* or the made land which traverse such soils plus two (2) additional vertical feet; or as determined from a *flood hazard soil* interpretation. The *regulatory flood protection elevation* shall be the *base flood elevation* established on the *drainage basin study maps* plus two (2) additional vertical feet.”.

**Section 21.** All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

**Section 22.** If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or

applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

**Section 23.** This ordinance has been adopted following a duly advertised joint public hearing of the Raleigh City Council and the City Planning Commission following a recommendation of the Planning Commission.

**Section 24.** This ordinance has been provided to the North Carolina Capital Commission as required by law.

**Section 25.** This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in G.S. 14-4(a) or similar limitations.

**Section 26.** This ordinance shall become effective five (5) days following its adoption.

**ADOPTED:** November 21, 2006  
**EFFECTIVE:** November 26, 2006  
**DISTRIBUTION:** Stormwater Services  
Public Works  
Planning  
Inspections

*This ordinance prepared by the Raleigh City Attorney's Office*